

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff, : Case No. 3:06-cr-045  
Also 3:07-cv-374

-vs- : District Judge Walter Herbert Rice  
Magistrate Judge Michael R. Merz

GERARDO BRISENO-FRAGOSO,

Defendant.

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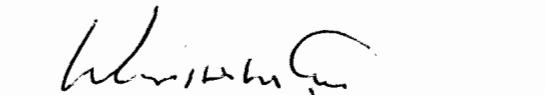
**ORDER ADOPTING REPORT AND RECOMMENDATIONS**

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The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. No. 95), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired on December 11, 2008, hereby ADOPTS said Report and Recommendations.

It is therefore ORDERED that Defendant's Motion under 28 U.S.C. § 2255 be, and it hereby is, denied with prejudice. Because reasonable jurists would not disagree with this result, he is also be denied leave to appeal *in forma pauperis* and any requested certificate of appealability.

December 19, 2008.

  
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Walter Herbert Rice  
United States District Judge